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FILING DATE ATTORNEY DOCKET NO. APPLICATION NO. FIRST NAMED INVENTOR 09/630,270. 08/01/00 WISSNER 33,451 01 **EXAMINER** HM12/1122 ARNOLD S MILOWSKY DENTZ, B WYETH-AYERST LABORATORIES PAPER NUMBER **ART UNIT** FO BOX 8299 PHILADELPHIA PA 19101 1625 **DATE MAILED:**

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

11/22/00

Office Action Summary

Application No. 09/630,270

Applicant(s)

Wissner et al

Examiner

Bernard Dentz

Group Art Unit 1625



Responsive to communication(s) filed on	
This action is FINAL .	
Since this application is in condition for allowance except:	for formal matters, prosecution as to the merits is closed
in accordance with the practice under Ex parte Quayle, 19	
A shortened statutory period for response to this action is set is longer, from the mailing date of this communication. Failur application to become abandoned. (35 U.S.C. § 133). Exten 37 CFR 1.136(a).	re to respond within the period for response will cause the
Disposition of Claims	
	is/are pending in the application.
Of the above, claim(s)	is/are withdrawn from consideration.
☐ Claim(s)	
☐ Claim(s)	
☐ Claims	
	•
Application Papers See the attached Notice of Draftsperson's Patent Draw	vina Review, PTO-948
The drawing(s) filed on is/are objective.	
☐ The proposed drawing correction, filed on	
The specification is objected to by the Examiner.	
☐ The oath or declaration is objected to by the Examiner.	
Priority under 35 U.S.C. § 119	
Acknowledgement is made of a claim for foreign priority	ty under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies	
received.	
☐ received in Application No. (Series Code/Serial N	lumber)
received in this national stage application from the	
*Certified copies not received:	A STATE OF THE STA
X Acknowledgement is made of a claim for domestic price	ority under 35 U.S.C. § 119(e).
Attachment(s)	
Notice of References Cited, PTO-892	
☑ Information Disclosure Statement(s), PTO-1449, Paper	No(s)2
Interview Summary, PTO-413	048
 Notice of Draftsperson's Patent Drawing Review, PTO- Notice of Informal Patent Application, PTO-152 	·340
Notice of informal Fatent Application, FTO-152	
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SEE OFFICE ACTION OI	N THE FOLLOWING PAGES

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ormum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent No. 6,002,008. Although the conflicting claims are not identical, they are not patentably distinct from each other because they overlap.

For example when in claim 1 of the patent one of the R groups on the benz o part of the quinoline moiety is

$$R_8>=< \frac{CCNH(CH_2)p}{R_8}$$

and in claim 1 of the patent one of the G groups is

$$R_3 > = \langle CONH \\ R_3 \rangle$$

overlap occurs.

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Applicants should shorten the Abstract by stating that the variables are as defined in the specification. Applicants should include a copy of Burke, Drugs Future referce AQ with the response.

Applicants should insert the correct priority data after the title on p.1.

Any inquiry concerning this communication should be directed to B. Dentz at telephone number (703) 308-4544.

Dentz/sg

11/16/00

EERNARD DENTZ PRIMARY EXAMINER GROUP 1600